

**WILLIAM N. DEVLIN and wife
CARRIE LUCKSAVAGE,**

VS.

Defendant.

THIS MATTER is before the Defendant's Motion to Strike Supplemental Memorandum [Doc. 17]; the Plaintiffs' Motion to Withdraw Supplementation to their Response to Defendant's Motion to Dismiss [Doc. 19]; and Plaintiffs' Motion for Leave to Supplement Response to Motion to Dismiss [Doc. 20].

The Defendant has moved to dismiss the Plaintiff's Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil procedure. [Doc. 12]. The Plaintiffs filed a timely Response to the Defendant's Motion [Doc. 14], and the Defendant filed a timely Reply [Doc. 15]. Thereafter, the Plaintiff filed a Supplemental Memorandum in support

of its Response. [Doc. 16]. The Defendant moves to strike the Supplemental Memorandum. [Doc. 17]. In response, the Plaintiff moves to withdraw the Supplemental Memorandum [Doc. 19], and instead moves for leave to supplement its Response and “disclose unto the court materials and newly discovered evidence which support and confirm the allegations contained in the Plaintiffs['] complaint.” [Doc. 20 at 2].

The Plaintiffs’ motion for leave to supplement its Response is denied. A Rule 12 motion to dismiss tests only the legal sufficiency of the pleadings. See Edwards v. City of Goldsboro, 178 F.3d 231, 243-44 (4th Cir. 1999). Evidentiary matters outside the pleadings have no bearing on the sufficiency of the Plaintiffs’ Amended Complaint and therefore must be disregarded at this stage of the litigation. See Bostic v. Mader, No. 2:12cv87, 2013 WL 4079288, at *8 (W.D.N.C. Aug. 13, 2013).

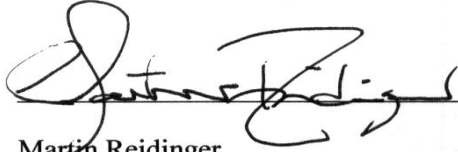
IT IS, THEREFORE, ORDERED that:

- (1) Plaintiffs’ Motion to Withdraw Supplementation to their Response to Defendant’s Motion to Dismiss [Doc. 19] is **ALLOWED**;
- (2) Defendant’s Motion to Strike Supplemental Memorandum [Doc. 17] is **DENIED AS MOOT**; and

(3) Plaintiffs' Motion for Leave to Supplement Response to Motion to Dismiss [Doc. 20] is **DENIED**.

IT IS SO ORDERED.

Signed: January 8, 2014


Martin Reidinger
United States District Judge

